



United States Department of the Interior

FISH AND WILDLIFE SERVICE

West Virginia Field Office
694 Beverly Pike
Elkins, West Virginia 26241



Contact Name: _____

Email Address or Fax Number: _____

Project Name & Location: _____

Date of Letter Request: _____

This is in response to your letter requesting threatened and endangered species information in regard to the proposed project listed above. These comments are provided pursuant to the Endangered Species Act (ESA, 87 Stat. 884, as amended; 16 U. S. C. 1531 *et seq.*).

Indiana Bat

The proposed project may provide summer foraging and roosting habitats, as well as winter habitat, for the federally endangered Indiana bat. The Indiana bat (*Myotis sodalis*) may use the proposed site for foraging and roosting between April 1 and November 14. Indiana bats use caves or mine portals for winter hibernation between November 15 and March 31. Indiana bat foraging habitat is generally defined as riparian, bottomland, or upland forest, as well as old fields or pastures with scattered trees. Roosting and maternity habitats consist primarily of live or dead hardwood trees which have exfoliating bark that provides space for bats to roost between the bark and the bole of the tree. Tree cavities, crevices, splits, or hollow portions of tree boles and limbs also provide roost sites. In West Virginia, the Service considers all forest habitats containing trees greater than or equal to 5 inches in diameter at breast height (DBH) to be potentially suitable as summer roosting and foraging habitat for the Indiana bat.

To avoid liability under section 9 of the ESA, no timber removal should occur in the proposed site consultation with the Service is complete. The project proponent should determine the amount of suitable Indiana bat summer roosting habitat that will be removed from the proposed site. The Service has evaluated the availability of suitable foraging and roosting habitats on the West Virginia landscape relative to the best estimate of the statewide population of Indiana bats. On that basis, we have determined that projects affecting 17 acres or less of suitable forest habitat and that occur more than 10 miles from a known priority 1 or 2 Indiana bat hibernaculum, more than 5 miles from a known priority 3 or 4 Indiana bat hibernaculum, or more than 2.5 miles from any known maternity roost, or more than 5 miles from summer capture sites where no roosts were identified are very unlikely to result in direct or indirect impacts to the species. The effects of such projects are considered discountable and the projects, therefore, are not likely to adversely affect the species¹. Tree removal associated with such projects can occur at any time of year.

¹ Different recommendations and analyses are applied to wind projects due to the differences in types of effects that may occur.

Updated November 17, 2014

If, however, the proposed project, or a portion thereof, will occur within 10 miles of a priority 1 or 2 known Indiana bat hibernaculum, 5 miles of a known priority 3 or 4 hibernaculum, 2.5 miles of a known maternity roost, or 5 miles of a capture site where no roosts were located, the 17-acre threshold described above does not apply. Under these circumstances, additional coordination with the Service's West Virginia Field Office is required. Project-specific surveys or avoidance measures will need to be developed and reviewed for projects of any size that are proposed within these buffer areas prior to implementation of the proposed action.

Options

Your project does not fall within any of these buffers. Therefore, if 17 or more acres of potential Indiana bat summer roosting habitat will be removed as a result of the proposed action, and the project is not within any of the hibernacula or summer use buffers described above, we recommend one of two options to avoid incidental take of the Indiana bat. Please choose and complete either Option 1 or Option 2 below as your choice will be applicable for the duration of the proposed project. **Options may not be combined.**

It is important to note that "project" includes all project features, not just the portion of the project prompting the submittal of a permit application (*e.g.*, to WVDEP or the Corps). For example, a residential development would include all features of the development, including all forest or wooded areas to be affected or encroached upon by roads, utility lines, houses, driveways, septic areas, detention basins, stormwater basins, yards, lots, *etc.* An oil or gas project would include not only the well and well pad, but also the roads, staging areas, impoundments and holding pits, and oil and gas lines associated with the well or well field.

These options are "guidance" and not policy, a project proponent has the option of not following the Guidance's recommendations when providing information to the Service, however, this will likely increase review times or result in projects that will adversely affect Indiana bats and, therefore, require formal consultation.

Please note, the recommendations for Option 1 have changed as of July 2014.

Option 1:

This option presumes that Indiana bats are present at the proposed site and sufficient avoidance and minimization measures must be developed and implemented to avoid incidental take. All timber removal operations must be conducted between November 15 and March 31, when Indiana bats are in hibernation **and** a protection plan for the Indiana bat should be developed.

If this option is chosen for non-linear projects, a habitat evaluation should be conducted to calculate the percentage of suitable Indiana bat summer roosting habitat that would remain after project construction within a **2-mile radius of the center point** of the proposed disturbance. Please be sure to determine the 2-mile radius from the center of the proposed project area rather than from the project boundary. For linear projects like roads, oil and gas pipelines, or electric transmission lines, the habitat evaluation should be done for the area within **¼-mile on each side of the proposed right-of-way** for the entire length of the project. Please calculate the number of acres of forested habitat and non-forested habitat within the appropriate analysis area both prior to and after project construction.

In addition, a detailed on-site habitat assessment of the amount and quality of potential Indiana bat summer habitat that would be cleared by the project should be conducted to ensure that Indiana bats present in the area will not be affected by loss of available roosting and foraging habitat. After this assessment is conducted, measures to avoid and minimize impacts to Indiana bat summer habitat should be developed. An Indiana Bat Conservation Plan should then be developed to avoid and minimize adverse

impacts to bats. Information on how to develop this plan is available in our Guidance on Developing and Implementing an Indiana Bat Conservation Plan and its associated appendices. This plan should be developed by someone who has experience with Indiana bat habitat requirements such as those listed in the List of Surveyors Qualified to Conduct Indiana Bat Surveys in West Virginia.

The results of the habitat evaluations and the proposed conservation plan should be submitted for our review prior to commencement of the project. If we determine that the extent of disturbance is not significant enough to adversely affect the Indiana bat, the project may proceed with seasonal restrictions on timber harvest and commitments made for avoidance and minimization of project impacts on suitable bat habitat. Seasonal restriction on timber harvest will apply for the life of the project.

If we determine that the extent of disturbance may affect, and is likely to adversely affect the Indiana bat, a survey may be necessary to determine if Indiana bats are present, or additional conservation measures may be required. For further information, please see Option 2.

Option 2:

Surveys are conducted to determine if the summer foraging and roosting habitats within the proposed site are occupied by the Indiana bat. The enclosed 2014 Revised Range-wide Indiana Bat Summer Survey Guidelines should be followed. To avoid insufficient or inadequate surveys, a survey plan for the proposed site should be submitted to us for concurrence prior to conducting the survey. Acoustic surveys may be conducted between May 15 and August 15, and mist-net surveys may be conducted between June 1 and August 15. The surveys should be conducted by a qualified bat biologist with experience in identifying Indiana bats and who holds a current, valid collection permit from the West Virginia Division of Natural Resources (WVDNR). The WVDNR may be contacted at the Elkins Operation Center, P.O. Box 67, Ward Road, Elkins, West Virginia, 26241; phone (304) 637-0245. A List of Surveyors Qualified to Conduct Indiana Bat Surveys in West Virginia is also enclosed.

The survey results should be provided to the Service's West Virginia Field Office for review and concurrence. If no endangered bats are detected and we agree with the survey findings, timber harvest can proceed at any time of year. If endangered bats are detected, the West Virginia Field Office and the West Virginia Division of Natural Resources should be notified the next business day. We will then work with the project proponent to minimize the possibility of impacts to Indiana bats. The Guidance on Developing and Implementing an Indiana Bat Conservation Plan may be used to help develop measures to minimize impacts when Indiana bats are captured.

Surveys are considered current for five years consisting of the summer they are done and the following four summer seasons. Surveys should be repeated for any timber removal occurring after this 5-year period.

Indiana and Virginia Big-eared Bats

Caves and Mine Portals

Regardless of which option is chosen from above, the presence of caves and mine portals, and their use by bats, must also be addressed. Indiana bats hibernate in caves and mines during the winter and all individuals are assumed to be in the hibernacula during the period November 15 and March 31. Although some bats will remain in hibernation longer, other bats may become active and leave the hibernacula in early April. Indiana bats also use the hibernacula and the areas around them for fall-swarming and spring-staging activity (August 15 to November 14 and April 1 to May 14, respectively). Some males have been known to stay close to the hibernacula during the summer and may use the hibernacula as a summer roosts. The federally endangered Virginia big-eared bat (*Corynorhinus townsendii virginianus*) may also use caves or mine portals during any time of the year. Therefore, the following step-wise

process should be followed in order to determine if any caves or abandoned mine portals in the proposed project area are used by endangered bats. It should be noted that impacts to caves or mine portals that are used by endangered bat species may result in violation of section 9 of the ESA. Caves may also contain other sensitive species, and activities that may affect cave passages and openings should generally be avoided to the maximum extent practicable. Also note that the criteria and forms listed below may be modified as new information on bats and mines in West Virginia is obtained.

The proposed site should be surveyed for caves and mine portals. This survey can be performed by mining engineers, other field personnel, or biologists with experience identifying caves or mines. The survey should include a review of topographic, mining, karst occurrence, and environmental resources information maps; as well as actual field reviews of the entire proposed project area. For linear projects (e.g., transmission lines, natural gas pipelines, highways, and access roads), the field survey should include lands buffering the disturbance footprint of the proposed linear project, extending to 0.6 mile (1 km) on each side of the outer edges of the footprint.

Any caves and portals found should be evaluated for characteristics that may indicate potential use by bats. A Phase I Cave/Mine Portal Survey Data Sheet should be completed for each opening found. This data sheet is enclosed and results should be compared against the criteria listed in the Draft Protocol for Assessing Abandoned Mines/Caves for Bat Use. The data obtained from the survey should be provided to us for review prior to implementation of any activities that may impact caves or portals.

Any caves and portals determined not to exhibit potential habitat for bats, based upon the criteria referenced above, will not require any further assessments for the presence of federally listed bat species. If caves and/or portals at the proposed site appear to have suitable bat habitat characteristics, mist net surveys or trapping may be recommended. Guidelines for conducting these surveys are provided in the Draft Protocol for Assessing Abandoned Mines/Caves for Bat Use. However, due to concerns about the potential for mist netting and trapping at caves or portals to exacerbate the spread of white nose syndrome, please contact this office for the most current recommendations and protocols prior to conducting these activities. The results of any surveys should be provided to this office for review and concurrence prior to proceeding with any activities that may impact caves or portals. If federally listed bats are found using caves or portals in the project area, further consultation will be necessary.

To facilitate consultation pursuant to the ESA, please provide to us all the following information at one time and prior to implementation of timber removal or other activities that may impact caves or mine portals:

- 1) data pertaining to either Option 1 or Option 2 (options may not be combined); and
- 2) information on whether there are caves or old mine portals at the proposed project site, as well as the results of all surveys conducted to determine whether these openings exhibit potential bat habitat.

Any Federal permits required by this project should not be issued until we provide a letter stating that consultation is concluded. We cannot prepare a response unless sufficient information under 1 and 2 above is provided.

Additionally, on October 2, 2013, in the *Federal Register* (78 FR 61045 -61080) the Service proposed the northern long eared bat (*Myotis septentrionalis*) for listing under the ESA. If a decision is made to list this species, potential impacts from this project to this species may need to be addressed if this project is not completed by April 2, 2015. We encourage you to begin incorporating conservation measures to protect these species prior to any potential final listing decisions. Additional information regarding the northern

long eared bat and conference procedures can be found at the following address:
<http://www.fws.gov/midwest/endangered/mammals/nlba/pdf/NLEBinterimGuidance6Jan2014.pdf>

If you have any questions regarding these comments, please contact the biologist listed below at (304) 636-6586 or at the letterhead address.

Biologist Date: _____

John Schmidt, Field Supervisor Date: _____

Enclosures (4)